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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1960.

No. 750

COMPLETE AUTO TRANSIT, INC., a corporation,
Appellant,

vs.

CHARLES F. CARPENTIER, Secretary of State of the State of Illinois,
Appellee.

ON APPEAL FROM THE SUPREME COURT OF ILLINOIS.

MOTION TO DISMISS THE APPEAL OR TO AFFIRM THE JUDGMENT APPEALED FROM. CERTIFICATE OF SERVICE.

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CHARLES F. CARPENTIER, Secretary of State of the State of Illinois,

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ON APPEAL FROM THE SUPREME COURT OF ILLINOIS.

MOTION TO DISMISS THE APPEAL OR TO AFFIRM THE JUDGMENT APPEALED FROM. CERTIFICATE OF SERVICE.

Appellee, Charles F. Carpentier, Secretary of State of Illinois, moves this Court to dismiss this appeal or to affirm the judgement appealed from, on the grounds that:

I.

There is no substantial Federal question presented.

II.

The Federal questions sought to be reviewed were not timely or properly raised, nor expressly passed on.

III.

The judgment of the Supreme Court of Illinois, below, rests on an adequate non-Federal basis.

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Counsel for Appellee.

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Of Counsel.

STATEMENT OF BACKGROUND

The Illinois Motor Vehicle Law (Ill. Rev. Stat., Ch. 95½) requires motor vehicles, as therein defined, to be registered (licensed) and the payment of registration (license) fees for such registration before such motor vehicle may be operated over the highways of Illinois (Ill. Rev. Stat., Ch. 95½; Sec. 3-401). Section 3-402 of the Illinois Motor Vehicle Law exempts from registration certain vehicles under certain conditions. We are concerned in this case with one of the exemptions from registration set out in Section 3-402B(1) as follows:

> "Reciprocity. Any motor vehicle, trailer, semi trailer or pole trailer need not be registered under this Act provided the same is operated in accordance with the following provisions and any rules and regulations promulgated pursuant thereto:
>
> (1) A nonresident owner, except as otherwise provided in this section, owning any foreign registered vehicle of a type otherwise subject to registration hereunder, may operate or permit the operation of such vehicle within this State without registering such vehicle in, or paying any fees to, this State subject to the condition that such vehicle at all times when operated in this State is operated pursuant to a reciprocity agreement or declaration by this State, and further subject to the condition that such vehicle at all times when operated in this State is duly registered in, and displays upon it, a valid registration card and registration plate or plates issued for such vehicle in the place of residence of such owner, and displays any reciprocity permit or plate which may be required by the Secretary of State, and provided like privileges are afforded to residents of this State by the State of residence of such owner.

> Every nonresident, including any foreign corporation carrying on business within this State and owning and regularly operating in such business any motor vehicle, trailer or semi-trailer within this State, shall be required to register each such vehicle and pay the same fees therefor as is required with reference to like vehicles owned by residents of this State."
>
> . . . . . .

For convenience the privilege afforded to non-residents under Sec. 3-402B(1) will hereinafter be referred to as "reciprocity".

The appellant, COMPLETE AUTO TRANSIT, INC. (hereinafter sometimes called "Auto Transit"), contends that it is entitled to operate its Missouri-registered motor vehicles over the highways of Illinois, pursuant to the provisions of the statute above quoted, without registration or the payment of registration fees to the State of Illinois.

Auto Transit, is a Michigan corporation engaged as a "for hire" carrier in the transportation of Chevrolet automobiles for General Motors Corporation.

Auto Transit owns and leases property in the State of Missouri where it operates a large terminal, services, garages, and maintains motor vehicles, and registers the vehicles in question. In addition, Auto Transit maintains similar terminal facilities in Ohio and Georgia, in which states, it also registers vehicles.

Auto Transit, in the early part of 1958, filed an application with the appellee requesting waiver of registration fees (hereinafter called "reciprocity") with respect to 40 vehicles registered (licensed) in the State of Michigan. In this application Auto Transit stated that "the principal office" of Auto Transit was in Detroit, Michigan. In addition, employees of Auto Transit testified that all of the offi-

cers and directors of Auto Transit maintain their residence in the State of Michigan; that the corporate office of Auto Transit is in Michigan as a matter of convenience to the automobile industry; that the Michigan office acts as a clearing house for information; that the officers and directors of Auto Transit delegate authority to the branches to hire personnel, make up payrolls, and purchase and own motor vehicles; that the Missouri terminal is a branch office of Auto Transit; that all contracts of Auto Transit are executed in Michigan; that the branch manager in Missouri, is subject to the direction of the officers in Michigan; and that Auto Transit is qualified to do business as a foreign corporation in Missouri.

Auto Transit voluntarily withdrew its application for "reciprocity" with respect to its Michigan-registered (licensed) motor vehicles, and filed a new application in 1958, and a similar application in 1959, requesting "reciprocity", under Sec. 3-402B(1) of the Illinois Motor Vehicle Law, with respect to its Missouri-registered (licensed) motor vehicles operating out of its Missouri terminal.

The appellee refused and denied "reciprocity" (waiver of registration fees) with respect to the Missouri-registered (licensed) motor vehicles of Auto Transit on the basis that such vehicles were not registered (licensed) in the State of "residence" of Auto Transit as required by Section 3-402B(1), above quoted.

Auto Transit filed an action in the Circuit Court of Sangamon County, Illinois, for judicial review of the administrative decision of the appellee, claiming that it was entitled to "reciprocity". The Circuit Court of Sangamon County reversed the administrative order of denial of the appellee and directed the appellee to grant "reciprocity" to Auto Transit's Missouri-registered motor vehicles for the years 1958 and 1959.

A copy of the opinion of the Circuit Court of Sangamon County is set out in Exhibit B. It is pointed out that the Circuit Court of Sangamon County did not rule on any question involving the United States Constitution and Auto Transit failed to request any such ruling.

Thereafter appellee appealed the order of the Circuit Court of Sangamon County to the Supreme Court of Illinois. The Supreme Court of Illinois reversed the Circuit Court of Sangamon County and affirmed the administrative order of the appellee. A copy of this opinion is attached as Exhibit A. It is pointed out that neither in briefs nor oral arguments of Auto Transit was there any discussion or issue with respect to the United States Constitution, and, further, nowhere in said opinion did the Court rule with respect to any question involving the United States Constitution.

Thereafter Auto Transit filed a Petition for Rehearing which was denied, by the Supreme Court of Illinois, summarily, and without any express ruling with respect to any question involving the United States Constitution.

Thereafter on January 12, 1961, Auto Transit, without notice to the appellee, did obtain the execution of a "Certificate of the Supreme Court of the State of Illinois", a copy of which certificate is set out in the "Jurisdictional Statement" of Auto Transit. This certificate was signed by one Justice of the Illinois Supreme Court without the benefit of any hearing or argument of appellee.

BRIEF

I.

THERE IS NO SUBSTANTIAL FEDERAL QUESTION PRESENTED.

Auto Transit, a Michigan corporation, with "the principal office" of such corporation being located in Detroit, Michigan, registers its motor vehicles in the State of Missouri and seeks to use such motor vehicles over the highways of the State of Illinois without the payment of any registration fees to the State of Illinois under the "reciprocity" provisions of the Illinois Motor Vehicle Law.

The State of Illinois has refused Auto Transit this privilege under the law of the State of Illinois in that Auto Transit does not fit within the "reciprocity" exemptions set out in Section 3-402 B (1) of the law. In particular, Auto Transit is refused this privilege because its motor vehicles are not licensed in the "state of residence" of Auto Transit.

There is a long history of court interpretation of the "residence" of a corporation. The general law on this subject is that a corporation is a "resident" of the state in which it is incorporated. (13 Am. Jur. *Corporation*, Sec. 148; 23 Am. Jur. *Foreign Corporations*, Sec. 34, *et seq.* and Volume 8 of Fletcher, Cyclopedia of Corporations.)

It is also true that states may vary such interpretation of "residence" by statutory enactment. The State of Illinois has seen fit in its own Motor Vehicle Law to define a "resident of Illinois", with respect to corporations, as including both a corporation incorporated under the laws of Illinois and a corporation, regardless of state of incorporation, with "the principal place of business of such corporation" in the State of Illinois. (Ill. Rev. Stat. 1959, Chapt. 95½, Sec. 1-155.)

The law of Missouri follows the general rule, and the Supreme Court of Missouri has expressly interpreted the term "resident" in the Motor Vehicle Laws of Missouri to mean, with respect to a corporation, that a corporation is a "resident" in the state of its incorporation. (*Transport Rentals, Inc.* v. *Carpenter*, 325 S. W. 2d 745, and *State of Missouri* v. *Tustin*, 322 S. W. 2d 179 (1959).)

The Appellee, administrator of the Illinois Motor Vehicle Law, found that "the principal place of business" of Auto Transit was in Michigan. This is a question of fact, and the finding of the Appellee with respect to this matter is not disturbed.

Auto Transit seeks to establish that it may have a "residence" in any state in which it has a terminal and garages and maintains its motor vehicles.

It is important to remember that the State of Illinois requires "all persons" using motor vehicles over the highways of Illinois to register their motor vehicles unless such motor vehicles are exempt from registration. The Illinois Motor Vehicle Law being a general registration act applying to anyone using the highways, and Auto Transit being a person seeking to exempt itself from such requirements, it is incumbent upon Auto Transit to come within the provisions of any exemptions in the law, if it seeks to avail itself of an exemption.

It is important to remember also that the State of Illinois has in the past and would continue in the future to grant "reciprocity" to Auto Transit if Auto Transit will register its vehicles in its "state of residence", to wit: The State of Michigan.

In the event that Auto Transit, for its own purposes, refuses to register (license) its motor vehicles in its "state of residence", it cannot complain about meeting the re-

quirements of registration imposed on all other persons so using the highways of Illinois.

It should also be pointed out that Auto Transit registers its motor vehicles in the State of Missouri since it does an "intrastate" business in the State of Missouri. It would therefore not be entitled to "reciprocity" in the State of Missouri with respect to such vehicles, if such vehicles were registered in Michigan.

It should also be pointed out that an alternative provision available to Auto Transit under the Illinois Motor Vehicle Law is the "proration" privilege set out in Section 3-402 B (2). Under "proration", Auto Transit need only register a percentage of its motor vehicles with the State of Illinois based upon the miles traveled in Illinois compared to miles traveled in all other states, with respect to such motor vehicles. Such proration provisions were specifically placed in the Illinois Statutes to afford relief to interstate motor carriers who had been complaining about state taxation of their motor vehicles, based on residence, for the use of the highways of such state.

Auto Transit has seen fit not to register its vehicles in Michigan, since it uses such motor vehicles in intrastate commerce in the State of Missouri and is therefore required by Missouri law to register such motor vehicles in the State of Missouri, yet it is now asking this Court to require the State of Illinois to extend the privileges of "reciprocity" to Missouri-registered motor vehicles of Auto Transit on the basis that to do otherwise would deny to Auto Transit "due process" and the "equal protection" guarantees of the Fourteenth Amendment to the United States Constitution.

Illinois is not depriving Auto Transit of its "property" without due process of law. The registration provisions of the Illinois Motor Vehicle Law would be valid were there no

privileges of "reciprocity" granted to non-residents so long as the charge made for the use of the highways has some fair relationship to the use of the highways for which the charge is made." (*McCarroll* v. *Dixie Greyhound Lines*, 309 U. S. 176, 84 L. Ed. 683, 60 S. Ct. 504.) It is within the police power of the State of Illinois to exact a tax for the use of the highways which bears a reasonable relationship to the use of the highways and which is not discriminatory in that the tax is increased by reason of the interstate operations of Auto Transit. (*Bode* v. *Barrett*, 344 U. S. 583, 97 L.Ed. 567, 73 S. Ct. 468, 1952.)

The objections of Auto Transit with respect to "due process" are without substance. The State of Illinois has the power to tax for the use of its highways and the registration fees involved are not being used for a "different and forbidden power", *Bode* v. *Barrett*, *supra*.

Denial to Auto Transit of the privilege of "reciprocity", in the circumstances of this case, does not deny to Auto Transit the "equal protection of the laws". The provisions of Section 3-402B(1) pertaining to reciprocity are general in their application with respect to non-residents and such privilege is extended uniformly to such non-residents. The classifications provided in Section 3-402B(1) are reasonable and proper and within the power of the Legislature of the State of Illinois to prescribe.

Auto Transit has seen fit to register its motor vehicles, not in the State of Michigan where it is a resident, but in the State of Missouri and it has thereby voluntarily removed itself from the classification of non-residents otherwise entitled to reciprocity privileges under the Illinois Motor Vehicle Law. Illinois is not bound to make an exemption for Auto Transit or others similarly situated, who do not choose to bring themselves within the circum-

ference of the statute (*Storaasli* v. *Minnesota*, 283 U. S. 157, 51 S. Ct. 354, 75 L. Ed. 839). As the Court pointed out in *Broadway Express* v. *Murray*, 60 F. 2d 293, 301 (D. C. W. D. Okla. 1932):

> "The mere fact that a foreign truck is not or cannot be brought within the class benefited by the reciprocal provisions does not create a discrimination against it."

It is thus clear that the Fourteenth Amendment to the United States Constitution does not require the State of Illinois to extend the privilege of "reciprocity" for the benefit of all non-resident motor vehicles owners regardless of where the motor vehicles of such owners are registered.

This Court stated in *Hayes* v. *State*, 120 U. S. 68, 7 S. Ct. 350, 30 L. Ed. 579 (1886), as follows:

> "The Fourteenth Amendment of the Constitution of the United States * * * merely requires that all persons subject to such legislation shall be treated alike, under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed."

The State of Illinois has extended the privilege of "reciprocity" uniformly to all non-resident persons, including Auto Transit. Registration fees vary throughout the United States ranging from a low of $20 to a high of $1,139. It is proper for Illinois to require "non-residents" to register their vehicles in their state of "residence" rather than in any state of their own choosing. The fact that Auto Transit has not seen fit to register its motor vehicles in the State of Michigan, but has chosen to register such motor vehicles only in the State of Missouri, can hardly be used to justify its assertion that it is being denied the "equal protection under the laws" or that there is no reasonable basis for the classification made by the State of Illinois.

The power of the State of Illinois to classify for the purposes of taxation "is of wide range and flexibility". (*Louisville Gas & Electric Co.* v. *Coleman*, 277 U. S. 32, 48 S. Ct. 423, 72 L. Ed. 770 (1927).)

Inequalities which occasionally result in the application of tax laws do not defeat those laws, and absolute equality has never been held to be required by the "equal protection" clause of the Fourteenth Amendment (*Storaasli* v. *Minnesota, supra*). As stated in the case of *Barbier* v. *Connolly*, 113 U. S. 27, 5 S. Ct. 357, 28 L. Ed. 923 (1884):

> "* * * Special burdens are often necessary for general benefits * * * though, in many respects, necessarily special in their character, they do not furnish just ground of complaint if they operate alike on all persons and property under the same circumstances and conditions * * * Legislation which, in carrying out a public purpose, is limited in its application, if within the sphere of its operation, it affects alike all persons similarly situated, is not within the Amendment."

The reasoning of Brandeis, J. dissenting in *Dahnke-Walker Milling Co.* v. *Bondurant*, 275 U. S. 282, 66 L. Ed. 239, states the logical basis for dismissing this appeal:

> "If jurisdiction * * * can be obtained by the mere claim in words that a state statute is invalid, if so construed as to 'apply' to a given state of tax, the right to review will depend, in a large class of cases, not upon the nature of the constitutional cases involved, but upon the skill of counsel."

The judgment of the Supreme Court of Illinois, appealed from in this case, is in accord with the decisions of all of the courts of last resort of the other states that have considered this question. (See *State* v. *Garford Trucking Co.*, 16 A. L. R. 2d 1407, 72 A. 2d 851 (N. J.), *State* v. *Tustin*, 323 S. W. 2d 179 (Mo.), *Transport Rentals, Inc.* v. *Carpenter*, 325 S. W. 2d 745 (Mo.), *Western Express Co.* v. *Wallace*, 144 Ohio St. 612, 60 N. E. 2d 312 (Ohio).)

In addition, the reasoning of this Court in the cases of *Hendrick* v. *Maryland*, 325 U. S. 610, 35 S. Ct. 140, 59 L. ed. 385 (1914); and *Kane* v. *New Jersey*, 242 U. S. 160, 37 S. Ct. 30, 61 L. ed. 222 (1916); and *Hicklin* v. *Coney*, 290 U. S. 169; and *Bode* v. *Barrett*, 344 U. S. 583, 73 S. Ct. 468, 97 L. ed. 567 (1952), deal with the right of states to tax users of the highways of the States by such States.

It is therefore submitted that there is no substantial federal question presented by Auto Transit and the appeal should therefore be dismissed or the judgment below affirmed.

II.

THE FEDERAL QUESTIONS SOUGHT TO BE REVIEWED WERE NOT TIMELY OR PROPERLY RAISED NOR EXPRESSLY PASSED ON.

Appellant alleged issues involving the 14th Amendment to the Constitution of the United States in its administrative petition and subsequently in its Complaint filed in the Circuit Court. The Appellant, however, never argued, urged or otherwise asked the Circuit Court to pass on the constitutional questions. That the Circuit Court never passed on such questions is manifest from its Opinion (Appendix B). In the appeal of this case to the Supreme Court of Illinois, no issue involving a federal question was raised by the briefs of either party or mentioned in argument. It also was not expressly passed on by that Court as evinced by its Opinion below (Appendix A).

After receiving an adverse decision from the Illinois Supreme Court involving construction of the reciprocity provisions of the Illinois Motor Vehicle Law (Ill. Rev. Stat. 1957, Chapt. 95½, Para. 3-402 B (1)), Appellant belatedly, in its petition for rehearing, raised questions involving the Illinois Constitution and mentioned but did not urge issues under the 14th Amendment of the Constitution of the United States (Jurisdictional Statement—Appendix D). One Justice of the Illinois Supreme Court then, at the urging of Appellant, in an *ex parte* proceeding, held without notice to the Appellee, and for which there was no authority under the rules of procedure of that Court or the statutes of Illinois, certified (1) that the Appellant raised issues under the 14th Amendment of the Constitution of the United States at its earliest opportunity, and (2) that the Illinois Supreme Court was necessarily confronted with said constitutional

issues in denying Appellant's petition for rehearing in that it concluded that Section 1-155 (a Section defining "resident" in Illinois for purposes of the Illinois Motor Vehicle Law) of the Illinois Motor Vehicle Law (Ill. Rev. Stat. 1957, Chapt. 95½, Para. 1-155) did not violate the 14th Amendment of the Constitution of the United States. It is respectfully submitted that the certificate of the Illinois Supreme Court executed by one Justice thereof is an *ex parte* proceeding is not correct in its implication that Appellant has preserved its right to raise such issues before this Court.

The statement in the certificate that the Appellant raised constitutional issues involving the 14th Amendment at its earliest opportunity is misleading. It is settled under Illinois law that before the Supreme Court of Illinois will take jurisdiction on a direct appeal involving constitutional questions, such questions must be raised in the trial court, be urged, and be passed on there, and be properly preserved on appeal (e.g., *Group Securities, Inc. v. Carpentier*, 13 Ill. 2d 41 (1958)). These requirements were not met by Appellant (Appendix B). This appeal to the Supreme Court of Illinois was taken not because a constitutional issue was involved, but pursuant to Section 75 of the Illinois Civil Practice Act (Ill. Rev. Stat. 1957, Chapt. 110, Para. 75), which authorizes such action when the state is interested as a party or where the case relates to revenue. *It is readily apparent, therefore, that Appellant did not preserve its right to raise issues involving the Constitution of the United States before the Supreme Court of Illinois, and accordingly, they were not passed on by the Illinois Supreme Court* (Appendix A).

The certificate of the Illinois Supreme Court (Jurisdictional Statement—Appendix B), moreover, states that Section 1-155 of the Illinois Motor Vehicle Law (Ill. Rev. Stat.

1957, Chapt. 95½, Para. 4-155), defining "resident" for purposes of the Illinois Motor Vehicle Law was held not to have violated the 14th Amendment to the United States Constitution. Thus, in any event, the Illinois Supreme Court did not determine or expressly pass on the question of whether the reciprocity provisions of the Illinois Motor Vehicle Law (Ill. Rev. Stat. 1957, Chapt. 95½, Para. 3-402 B (1)) violated the 14th Amendment. It is this provision, not Section 1-155, to which constitutional objections are asserted by Appellant in this appeal.

At best, this certificate represents merely the opinion of one Judge of the Illinois Supreme Court. As a practical matter, the Illinois Supreme Court, if it had heard arguments of counsel for Appellee, may well have denied Appellant's petition for rehearing because the constitutional questions presented were not properly before it.

Constitutional issues such as those which Appellant attempts to raise at this juncture before the United States Supreme Court can hardly be said to have been timely or properly raised. This Court has consistently refused to entertain constitutional objections under such circumstances (*Duncan* v. *State*, 152 U. S. 377, 383, 14 S. Ct. 570, 38 L. ed. 485, 488 (1893)). Appellant's attempt to urge constitutional objections at this stage of these proceedings amounts to "a retrospective injection of a non-existent federal question". It is patently obvious that under the record of this proceeding, Appellant has not preserved its constitutional objections, and they have not been expressly passed on below (Appendix A).

III.

THE JUDGMENT OF THE SUPREME COURT OF ILLINOIS, BELOW, RESTS ON AN ADEQUATE NON-FEDERAL BASIS.

The decision below as evidenced by the Court's Opinion (Appendix A) was based solely on a construction of Illinois law. No federal questions were raised or passed on by the Illinois Supreme Court. The decision of the Court below lends itself to no other interpretation. It is a cardinal principle of jurisprudence, not requiring citation, that it is exclusively within the province of the highest tribunal of a state to construe with finality its statutes and that such a judgment so construing them is adequate.

CONCLUSION.

The *reductio ad absurdum* of Appellant's contentions before this Court, as before the Courts below, is that the State of Illinois should extend the privilege of the use of its highways to it without requiring registration of its motor vehicles in Illinois, so long as Appellant registers them in some other state of its choosing. Appellant is neither, as it contends, "a man without a country" (Jurisdictional Statement, Page 17) nor should it be "a man with many countries." Its "country" is Michigan and there it should register its vehicles if it wishes "reciprocity" for such vehicles using Illinois highways.

No novel questions of first impression are presented to this Court in this proceeding, and in fact, the permissible limits of regulation by a state of non-resident owned motor

vehicles using its highways in interstate commerce have been firmly established by this Court. The "reciprocity" provisions of the Illinois Motor Vehicles Law, here in question, clearly meet these requirements, though the Appellant has decided that it would be provident at this juncture to urge to the contrary. Accordingly, Appellee's Motion to Dismiss This Appeal or to Affirm the Judgment Appealed From should be allowed.

Respectfully submitted,

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APPENDIX A.

OPINION OF ILLINOIS SUPREME COURT APPEALED FROM
Docket No. 35597—Agenda 24—March, 1960

Complete Auto Transit, Inc., Appellee, v. Charles F. Carpentier, Secretary of State, Appellant

MR. CHIEF JUSTICE HOUSE delivered the opinion of the court:

This appeal is from a judgment of the circuit court of Sangamon County which reversed an administrative order of the defendant, Secretary of State, and directed him to enter an order granting plaintiff's application for reciprocity plates for its Missouri registered vehicles. The case relates to revenue.

The plaintiff is a Michigan corporation engaged in the business of transporting new automobiles from the factory to the dealer. It has an exclusive contract with the General Motors Corporation and maintains six terminals near the various assembly plants of that corporation. Two of the terminals are in Michigan, two in Georgia, one in Ohio, and one in Missouri.

In July of 1958 the plaintiff applied for the issuance of Illinois reciprocity plates for some 431 of its Missouri registered truck-tractors, under the provisions of section 3—402 (B) (1) of the Illinois Motor Vehicle Law. (Ill. Rev. Stat. 1957, chap. 95½, par. 3—402 (B) (1).) This section provides:

> "A nonresident owner, except as otherwise provided in this section, owning any foreign registered vehicle of a type otherwise subject to registration hereunder, may operate or permit the operation of such vehicle within this State without registering such vehicle in, or paying any fees to, this State subject to the condition that such vehicle at all times when operated in this State is operated pursuant to a reciprocity agreement or declaration by this State, and further subject to the

condition that such vehicle at all times when operated in this State is duly registered in, and displays upon it, a valid registration card and registration plate or plates issued for such vehicle in the place of residence of such owner, and displays any reciprocity permit or plate which may be required by the Secretary of State, and provided like privileges are afforded to residents of this State by the State of residence of such owner."

The application was denied and plaintiff sought a hearing under the provisions of section 2-117 of the Illinois Motor Vehicle Law. (Ill. Rev. Stat. 1957, chap. 95½, par. 2—117.) The denial of a similar application made in 1959 was also reviewed at the administrative hearing. The defendant affirmed the denial of both applications on the ground that the Missouri registered vehicles *were not registered in the State of the owner's residence* and for the further reason that there was *no reciprocity agreement* between the States of Illinois and Missouri. Plaintiff thereupon filed its complaint for judicial review in the circuit court of Sangamon County. The court found that plaintiff had a residence in the State of Missouri during the years in question and that there was a reciprocity agreement in force between the States of Illinois and Missouri during that period.

The principal question is whether plaintiff is a resident of Missouri within the meaning of section 3—402 (B) (1). Four jurisdictions with statutory provisions similar to section 3—402 (B) (1) have held that the place of residence of a corporate owner of a motor vehicle is where the corporation is incorporated. (*State* v. *Garford Trucking, Inc.*, 4 N. J. 346; *Western Express Co.* v. *Wallace*, 144 Ohio St. 612; *Hilburn* v. *Herrin Transportation Co.* (Tex. Civ. App.), 197 S. W. 2d 149; *Transport Rentals, Inc.* v. *Carpenter*, 325 S. W. 2d 745.) The Appellate Court of Missouri has also held that the place of residence of a corporate owner of a motor vehicle may be where the principal place of business is located, although it is incorporated in another State. (*State* v. *Tustin*, 322 S. W. 2d 179.) These and

many more cases dealing with various definitions of residence of a corporation have been cited by plaintiff and defendant.

The legislature has, however, in section 1—101 of the Illinois Motor Vehicle Law (Ill. Rev. Stat. 1957, chap. 95½, par. 1—101,) provided that "The following words and phrases when used in this Act shall, for the purpose of this Act, have the meanings respectively ascribed to them in this chapter, except when the context otherwise requires." A resident corporation is defined in section 1—155 (chap. 95½, par. 1—155) as being a corporation incorporated under the laws of the State of Illinois or having its principal place of business in this State. The plaintiff correctly asserts that this definition of which corporations are residents of Illinois does not specifically define a nonresident corporation's place of residence. We are of the opinion nevertheless that this section reveals the legislature's conception of corporate residence as that term is used in the Illinois Motor Vehicle Law.

The plaintiff next contends and the trial court found that a corporation can have more than one principal place of business and that plaintiff has a principal place of business in Missouri. We are of the opinion that the legislature intended to define but one business location by stating "the principal place of business."

The question of where a corporation's principal place of business is located is necessarily one of fact. The defendant found in the administrative hearing that plaintiff's principal place of business is located in Michigan and this finding is not disputed. Thus, since the plaintiff is *not incorporated* under the laws of the State of Missouri and *does not have its principal place of business in that State*, it is not a resident of the State of Missouri within the meaning of section 3—402 (B) (1).

It is then argued by the plaintiff that it is entitled to reciprocity plates for its Missouri registered vehicles under a reciprocity agreement between the States of Missouri and Illinois dated November 21, 1943. The agreement provides

that any corporation which has its *principal place of business* in either Illinois or Missouri shall in addition to such persons as fall within the common and legal definition of the word *"resident"* be deemed a resident of the State in which such principal place of business was so situated. This agreement does not authorize the defendant to grant reciprocity to the plaintiff on its Missouri registered vehicles because the plaintiff's principal place of business, as determined in the administrative hearing, is not located in Missouri.

The judgment of the circuit court of Sangamon County is reversed.

Judgment reversed.

APPENDIX B.

The Judgment Order of the Circuit Court of Sangamon County reversing the Order of Denial of the defendant, is as follows:

Order of the Circuit Court of Sangamon County, omitting caption and formal parts, is in words and figures, as follows:

"This above entitled cause having come on to be heard upon the Complaint of plaintiff and Answer of the defendant, with parties being represented by their respective attorneys and the court having heard the arguments of counsel and having examined the entire record as to all questions of law and fact presented by said record, and the court now being fully advised in the premises, the court, on Motion of plaintiff, pursuant to the Administrative Review Act (par. 275 (3), Ch. 110, Ill. Rev. Stats. 1957), Finds:

1. That it has jurisdiction of this cause and the subject matter thereof and jurisdiction of all the parties hereto.

2. That plaintiff is a foreign Corporation, organized under the laws of Michigan, and is authorized by the Interstate Commerce Commission to transport motor vehicles as a contract carrier for hire in interstate commerce in the States of Missouri and Illinois among others.

3. That plaintiff, a foreign Corporation, is qualified and authorized to do and does business in the State of Missouri; all the motor vehicles in question upon which plaintiff claim reciprocity and made application for reciprocity, were fully registered and licensed as a resident of Missouri according to the law of Missouri; that plaintiff also engages in interstate commerce outside the State of Missouri.

4. That plaintiff does not engage in intrastate commerce in Illinois, nor does it maintain or operate

any offices or terminals in Illinois, nor does it do any business whatsoever in Illinois and only uses the highways of Illinois in exclusively interstate commerce as authorized by the Interstate Commerce Commission.

5. That the Reciprocity Agreement between the States of Illinois and Missouri dated November 21, 1943 has not been terminated either pursuant to the governing law or the express terms of the Agreement itself, and said Agreement was in full force and effect at the time plaintiff claimed reciprocity thereunder and is still in effect under the applicable provisions of the Illinois Motor Vehicle Law (par. 3-402 (B), Ch. 95½, Ill. Rev. Stats. 1957).

6. That since 1934, plaintiff has had an established principal place of business in St. Louis, Missouri; the State of Illinois, under applicable Illinois law and reciprocal agreement, has continuously granted plaintiff reciprocity on all its motor vehicles registered and licensed according to Missouri law until January 1, 1958, at which time plaintiff was denied reciprocity by the State of Illinois.

7. That plaintiff, a Michigan Corporation, authorized to do and doing business in Missouri, has a principal place of business in the States of Missouri and Michigan, and that plaintiff being a resident of Missouri and Michigan whose vehicles are fully registered and licensed pursuant to the law of both states is entitled to reciprocity with the State of Illinois, pursuant to the reciprocity provisions of the Illinois Motor Vehicle Law. (Par. 3-402 (B), Ch. 95½, Ill. Rev. Stats. 1957).

It Is Therefore Ordered, Adjudged and Decreed that the Decision of the Secretary of State dated April 3rd, 1959 denying plaintiff's application for reciprocity is erroneous as a matter of law and the said Decision be and the same is hereby reversed and remanded to the Secretary of State with the direction to

enter an Order granting plaintiff's application for reciprocity for the years 1958 and 1959 from the States of Michigan and Missouri.

Entered this 24th day of July, 1959."